

In Re: Charles Murphy. Case AD-38

December 26, 2002

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN,
SCHAUMBER, WALSH, AND ACOSTA

On August 29, 2002, Charles Murphy (the Respondent) and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Agreement, subject to the Board's approval, providing for the entry of a consent order by the Board. The Respondent waived all further proceedings before the Board to which he may be entitled under the National Labor Relations Act, the Board's Rules and Regulations, or any other authority, and also waived his right to seek judicial review of the complaint, Formal Settlement Agreement, or Board Order. No party or person has objected to this settlement.

The Formal Settlement Agreement is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Settlement.

Based on the Formal Settlement Agreement and the entire record, the Board makes the following

FINDINGS OF FACT

The Respondent is a vice president of Hotel Employees and Restaurant Employees, Local 274 (the Union), and has at all material times appeared and practiced before the Board as a representative of the Union.

The Union is a labor organization within the meaning of Section 2(5) of the Act.

On April 23, 2001, the Regional Director for Region 4 of the Board served a letter referring misconduct allegations to the General Counsel of the Board. Thereafter, pursuant to Section 102.177 of the Board's Rules and

Regulations, the General Counsel issued a complaint and notice of right to hearing against the Respondent. The complaint alleges that, on April 3, 2001, during the Board-conducted decertification election in Case 4-RD-1901, the Respondent, while serving as the observer for the Union, struck the decertification petitioner in the face, and thereby engaged in misconduct of an aggravated character as described in Section 102.177(a) and (d) of the Board's Rules and Regulations.¹

ORDER

Based on the above findings of fact, the Formal Settlement Agreement, and the entire record, the National Labor Relations Board orders that:

In order to preserve and protect the orderly administration of the National Labor Relations Act and effectuate its policies:

IT IS HEREBY ORDERED that Charles Murphy be, and he hereby is, suspended from appearing or practicing before the National Labor Relations Board as a representative of any party in any Board proceeding for a 1-year period beginning January 1, 2002,² provided that he may appear to testify as a witness.

¹ Sec. 102.177(a) and (d) provides as follows:

(a) Any attorney or other representative appearing or practicing before the Agency shall conform to the standards of ethical and professional conduct required of practitioners before the courts, and the Agency will be guided by those standards in interpreting and applying the provisions of this section.

....

(d) Misconduct by an attorney or other representative at any stage of any Agency proceeding, including but not limited to misconduct at a hearing, shall be grounds for discipline. Such misconduct of an aggravated character shall be grounds for suspension and/or disbarment from practice before the Agency and/or other sanctions.

² We have been administratively advised that, as of January 1, 2003, the Murphy will have completed a 1-year period of nonappearance and nonpractice before the Board. In our view, he will have thereby satisfied the substantive provisions of the Settlement.